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A.F.R.

22-02-2006

HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO.2084 OF 2001

PETITIONER M/s Poly Pack India
Through Proprietor & Promotor
Shri Sandeep Jain S/o S.K. Jain
Aged about 31 years,
Nayapara Jagdalpur, Presently resident of B/248/3 Shailendra Nagar, Raipur (C.G.)

Versus

RESPONDENTS

1. M.P. Finance Corporation through Managing Director Indore (M.P.)
2. M.P. Finance Corporation through General Manager, Indore (M.P.)
3. M.P. Finance Corporation through Deputy General Manager Zonal office, 19 Central Avenue (West) Choubey Colony, Raipur (C.G.)
4. Additional Tahsildar (Recovery) & Deputy General Manager, MPFC Raipur Zone, Raipur (C.G.)

Present : Mr.Ashish Shrivastava, learned counsel for the petitioner.
Mr. P. Diwakar, Sr. Advocate with Mr. P.R. Patankar, learned counsel for the respondents.

ORAL ORDER
(Passed on 22nd February 2006.)

Madhya Pradesh Finance Corporation, the respondents herein, in response to an application made by the petitioner, an industrial unit, by its order dated 25-02-1991, sanctioned a loan of Rupees three lacs for purchase of machines and construction of buildings for establishing an industrial unit. The petitioner could not repay the loan amount with the interest accrued thereon in terms of schedule of repayment. That led to the Corporation resorting to the procedure provided under Section 29 of the State Finance Corporation Act, 1951 (*for short "the Act"*). The

property was brought to sale. The petitioner was also given an opportunity to bring the bidders for purchasing the subject property in the year 1995. Although an offer was received, that was only for a sum of Rs. 2.05 lacs. The pleadings laid before the Court would show that the Board of Directors of the Corporation took a policy decision that the property brought to sale should not be sold for less than Rs. 3 lacs. The return filed by the Corporation, as could be seen from paras 17 to 21, would show that the Corporation had taken steps to get the better offers but it failed in its attempts. Under the circumstances, the Corporation issued letter dated 13-11-2000 directing the petitioner to pay sum of Rs. 8.49 lacs towards principal as well as interest accrued on the principal amount. At that stage, being aggrieved by the above demand raised by the Corporation, this writ petition was filed.

(2) I have heard learned counsel for the parties. The only ground urged by the learned counsel for the petitioner for assailing the impugned demand is that the Corporation is that the Corporation ought to have sold the property for a sum of Rs. 2.05 lacs in the year 1995 itself in response to the sale advertisement issued in the newspapers i.e. Nav Bharat and Dainik Bhaskar and ought to have taken steps to recover the outstanding balance amount from the petitioner. In a matter like this, the petitioner-lonee cannot dictate modes or methods by which the Corporation should have recovered the outstanding loan amount with interest from the petitioner-borrower. The decision taken by the Board of Directors of the Corporation on 26-09-1995 that the property brought to sale should not be sold for a prince less than Rs. 3 lacs could not be faulted with on any rational ground. The fact remains that the petitioners has utterly failed to repay the loan amount with interest in accordance with

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the schedule of repayment. It is quite often said by the Courts that the public money advanced by the public Corporation like the respondent-Corporation should not be allowed to be in the private pockets to the peril of public interest. In that view of the matter, no exception could be taken to the coercive steps taken by the Madhya Pradesh Finance Corporation nor is there any legal ground to attack the demand now raised by the Corporation with the petitioner to repay a sum of Rs. 8.49 lacs. The writ petition is totally devoid of merit and it is accordingly dismissed. No costs.

Sd/-
Chief Justice

Brajesh